

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division



[UNDER SEAL],

Plaintiff,

v.

[UNDER SEAL],

Defendant.

:
:
:
: Civil Action No. 1:20cv381 LD/IDD
: *Filed In Camera and Under Seal*
: *as Required by 31 U.S.C. §*
: *3730(b)(2) and Virginia Code §*
: *8.01-216.5*
:

DOCUMENT TO BE KEPT UNDER SEAL
(DO NOT PLACE ON PACER)

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA, *ex rel.*
SARA SOLIS

and

COMMONWEALTH OF VIRGINIA, *ex rel.*
SARA SOLIS,

Relator-Plaintiffs,

V.

MICHAEL YUZEFOVICH, M.D.

and

MILLENNIUM GYNECOLOGY, PLLC, d/b/a
MILLENNIUM PREGNANCY & GYNECOLOGY

Defendants.

Civil Action No. 1:20cv381 40/1DD
Filed In Camera and Under Seal
as Required by 31 U.S.C. §
3730(b)(2) and Virginia Code §
8.01-216.5

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW, Relator-Plaintiff SARA SOLIS, by and through her attorneys,
TRIALHAWK LITIGATION GROUP, LLC, and states as follows for her Complaint:

I. NATURE OF THE CASE AND SUMMARY OF THE FRAUD

1. This is an action to recover damages and civil penalties on behalf of the United States of America and on behalf of the Commonwealth of Virginia, arising out of false claims that were knowingly presented by defendants Michael Yuzefovich, M.D. and Millennium Gynecology, PLLC d/b/a Millennium Pregnancy and Gynecology (collectively “Defendants”) to the United States Department of Health and Human Services and Centers for Medicare and

Medicaid Services and the Virginia Department of Medical Assistance Services / Virginia Medicaid.

2. This action arises under the provisions of 31 U.S.C. § 3729, *et seq.*, commonly known as the False Claims Act (the “Federal Act”) and Virginia Code § 8.01-216.1, *et seq.*, the Virginia Fraud Against Taxpayers Act (the “Virginia Act”).

3. Defendants knowingly and willfully made fraudulent claims for the purpose of obtaining payment of monies to the Center for Medicare and Medicaid Services and the Commonwealth of Virginia through the Medicaid Program, and/or condoned the making of such fraudulent claims on its behalf, as set forth below.

4. As will be fully discussed *infra*, during the care and treatment of Sara Solis throughout her pregnancy with fetus Juliana Joyner, Dr. Yuzefovich and Millennium Gynecology, PLLC billed Medicaid and/or the Virginia Department of Medical Assistance Services for: (1) procedures that were never performed; and (2) for procedures that were not completed.

5. Upon information and belief, Dr. Yuzefovich is involved with eighty to one hundred ultrasound clinical interpretations *per week*.

6. Although it is unknown when Dr. Yuzefovich and Millennium Gynecology, PLLC began billing for procedures never performed and for incomplete procedures and how many never performed or incomplete procedures Dr. Yuzefovich and Millennium Gynecology, PLLC have previously billed Medicaid and/or the Virginia Department of Medical Assistance Services/Virginia Medicaid for, it is believed that Dr. Yuzefovich and Millennium Gynecology, PLLC continue to bill for procedures never performed and for incomplete procedures.

II. JURISDICTION AND VENUE

7. The United States District Courts have exclusive jurisdiction over actions brought under the Federal Act pursuant to 31 U.S.C. § 3732(a), and otherwise have jurisdiction under 28 U.S.C. § 1331 and § 1345. This Court additionally has jurisdiction over claims brought under the Virginia Act pursuant to 31 U.S.C. § 3732(b) and may exercise supplemental jurisdiction over related state claims pursuant to 28 U.S.C. § 1367(a).

8. Section 3732(a) of the Federal Act provides, in pertinent part, that “[a]ny action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, can be found, resides, transacts business, or in which any act proscribed by Section 3729 occurred.” The acts complained of herein occurred in Woodbridge, Virginia within this judicial district.

9. Pursuant to the Federal Act, this Complaint is to be filed *in camera* and remain under seal for a period of at least sixty (60) days and shall not be served on the Defendants until the Court so Orders. The United States may elect to intervene and proceed with the action within sixty (60) days or longer if so Ordered by the Court, after it receives the Complaint and Disclosure of Evidence.

10. Under the Virginia Act, the portions of the Complaint asserting state claims are to be filed *in camera* and remain under seal for a period of at least one hundred twenty (120) days and shall not be served on the Defendants until the Court so Orders. The Commonwealth of Virginia may elect to intervene and proceed with the action within one hundred twenty (120) days or longer if so Ordered by the Court, after it receives the Complaint and Disclosure of Evidence.

III. DEFENDANTS

11. Defendant Michael Yuzefovich M.D. is a medical doctor who at all times relevant to this Complaint was licensed to practice medicine in the Commonwealth of Virginia and who maintained an active obstetrical/gynecological practice. Upon information and belief, Michael Yuzefovich, M.D. is a citizen of the United States and a resident of the Commonwealth of Virginia.

12. Defendant Millennium Gynecology, PLLC d/b/a Millennium Pregnancy and Gynecology was a for-profit professional limited liability corporation organized and existing under the laws of the Commonwealth of Virginia with locations in Reston, Alexandria, Annandale, and Woodbridge, Virginia. Millennium Gynecology, PLLC is a Medicaid Service Provider that has participated in a scheme to defraud the United States of America, and, under applicable joint funding provisions, the Commonwealth of Virginia.

13. Millennium Gynecology, PLLC was founded in May of 2009. Dr. Yuzefovich is the Founder and President of Millennium Gynecology, PLLC, and he also serves as the Chief Executive Officer and Medical Director of the practice.

14. As set forth in detail below, Dr. Yuzefovich and Millennium Gynecology, PLLC knowingly and willfully presented, or caused to be presented, false submissions for payment to the Virginia Department of Medical Assistance Services and/or the Virginia Medicaid Program, and created and used, or caused to be created and used, false statements and records in order to ensure payment for fraudulently billed services and Medicaid claims in violation of state and federal law.

IV. RELATOR-PLAINTIFF

15. Relator-Plaintiff Sara Solis (“Ms. Solis” or “Relator-Plaintiff”) is a citizen of the United States and a resident of the Commonwealth of Virginia. Pertinent to this Complaint, Ms. Solis was a patient of Dr. Yuzefovich and Millennium Gynecology, PLLC during her pregnancy with fetus Juliana Joyner, who was delivered stillborn on March 19, 2018.

16. As required under the False Claims Act, 31 U.S.C. § 3730(b)(2), Ms. Solis shall provide to the Attorney General of the United States and the United States Attorney for the Eastern District of Virginia a statement of material evidence and information related to the allegations set forth herein.

17. As required under the Virginia Fraud Against Taxpayers Act, Va. Code § 8.01-216.1, *et seq.*, Ms. Solis shall provide to the Attorney General of the Commonwealth of Virginia a statement of material evidence and information related to the allegations set forth herein.

V. FACTUAL ALLEGATIONS

18. Ms. Solis presented to Millennium Gynecology, PLLC on December 13, 2017 for care and treatment related to her pregnancy with Juliana Joyner. Throughout her pregnancy with Juliana, Sara Solis consulted and treated with Millennium Gynecology, PLLC.

19. On December 13, 2017, Sara Solis underwent a prenatal anatomy scan conducted by ultrasound evaluation at Millennium Gynecology, PLLC.

20. The December 13, 2017 ultrasound was performed by Gisella Campbell, RDMS. Upon information and belief, Gisella Campbell, RDMS was an agent, employee, or servant of Millennium Gynecology, PLLC, acting within the scope of her agent, employee, or servant

relationship with Millennium Gynecology, PLLC, at the time of the acts alleged herein. Gisella Campbell, RDMS is a sonographer who reviewed the ultrasound images and drafted the ultrasound report contained in Ms. Solis' medical records.

21. Dr. Yuzefovich signed the December 13, 2017 ultrasound report Ms. Campbell drafted, purportedly as an indication he had reviewed the ultrasound images obtained and agreed with Ms. Campbell's findings.

22. Dr. Yuzefovich signed the December 13, 2017 ultrasound as revealing a normal three-vessel umbilical cord between Sara Solis and her fetus.

23. Upon information and belief, Dr. Yuzefovich never reviewed the images obtained during the December 13, 2017 ultrasound during Ms. Solis' pregnancy with Juliana Joyner.

24. Notwithstanding his failure to review the ultrasound images obtained on December 13, 2017, Dr. Yuzefovich and Millennium Gynecology, PLLC billed one hundred and fifty dollars and No/Cents (\$150.00) for the ultrasound procedure.¹

25. Due to this false representation, Dr. Yuzefovich and Millennium Gynecology, PLLC made or caused to be made to the Government, Medicaid and/or the Virginia Department of Medical Assistance Services paid \$44.15 for a procedure Dr. Yuzefovich never completed for Ms. Solis on, or about, December 13, 2017.

26. Upon information and belief, Dr. Yuzefovich performs approximately eighty to one hundred clinical ultrasound interpretations per week.

¹ The one hundred fifty dollar billing is reflected on Ms. Solis' bill with a service date of December 13, 2017 and a CPT code "76820-59," which is associated with an ultrasound of the umbilical arterial flow rate, specifically "Doppler velocimetry, fetal; umbilical artery." In addition to Dr. Yuzefovich not reviewing the ultrasound images, no doppler images were obtained during this study.

27. The bill to Ms. Solis with a charge date of December 13, 2017 reflects a charge for two hundred and fifty dollars and No/Cents (\$250.00) for CPT Procedure Code “76819.”

28. CPT Procedure code “76819” is associated with the performance of a fetal biophysical profile without non-stress testing.

29. Upon information and belief, Dr. Yuzefovich and Millennium Gynecology, PLLC did not perform a fetal biophysical profile without non-stress testing on Ms. Solis at any time during her pregnancy with Juliana Joyner.

30. Due to this false representation, Dr. Yuzefovich and Millennium Gynecology, PLLC made or caused to be made to the Government, Medicaid and/or the Virginia Department of Medical Assistance Services paid \$82.54 for a procedure Dr. Yuzefovich and Millennium Gynecology never performed on Ms. Solis on December 13, 2017.

31. On January 10, 2018, Sara Solis underwent a follow-up ultrasound evaluation conducted at Millennium Gynecology, PLLC.

32. The January 10, 2018 ultrasound was performed by Gisella Campbell, RDMS.

33. Dr. Yuzefovich signed the January 10, 2018 ultrasound report, again purportedly as an indication he had reviewed the ultrasound images obtained and agreed with Ms. Campbell’s findings.

34. Dr. Yuzefovich, M.D. signed the January 10, 2018 ultrasound as revealing a normal three-vessel umbilical cord between Sara Solis and her fetus.

35. Dr. Yuzefovich did not interpret or report any abnormality in the umbilical cord between Sara Solis and her fetus on the January 10, 2018 ultrasound.

36. Upon information and belief, Dr. Yuzefovich never reviewed the images obtained during the January 10, 2018 ultrasound during Ms. Solis' pregnancy with Juliana Joyner.

37. Notwithstanding his failure to review the ultrasound images obtained on January 10, 2018, Dr. Yuzefovich and Millennium Gynecology, PLLC again billed one hundred and fifty dollars and No/Cents (\$150.00) for the ultrasound procedure.

38. Due to this false representation, Dr. Yuzefovich and Millennium Gynecology, PLLC made or caused to be made to the Government, Medicaid and/or the Virginia Department of Medical Assistance Services paid \$44.15 for a procedure Dr. Yuzefovich never completed for Ms. Solis on, or about, January 10, 2018.²

39. In addition, a bill to Ms. Solis with a charge date of January 10, 2018 and a Health Insurance Claim Form dated January 13, 2018 reflects charge for two hundred and fifty dollars and No/Cents (\$250.00) for CPT Procedure Code "76819."

40. As previously noted, upon information and belief, Millennium Gynecology, PLLC did not perform a fetal biophysical profile without non-stress testing on Ms. Solis at any time during her pregnancy with Juliana Joyner and specifically did not perform a fetal biophysical profile on Ms. Solis on January 10, 2018.

41. Due to this false representation, Dr. Yuzefovich and Millennium Gynecology, PLLC made or caused to be made to the Government, Medicaid and/or the Virginia Department

² The one hundred fifty dollar billing is reflected on Ms. Solis' bill with a service date of January 10, 2018 and a CPT code "76820-59," which is associated with an ultrasound of the umbilical arterial flow rate, specifically "Doppler velocimetry, fetal; umbilical artery." In addition to Dr. Yuzefovich not reviewing the ultrasound images, no doppler images were obtained during this study.

of Medical Assistance Services paid \$82.54 for a procedure Dr. Yuzefovich never performed on Ms. Solis.

42. Based upon Dr. Yuzefovich's alleged interpretations of the December 13, 2017 and January 10, 2018 ultrasounds, Sara Solis was treated as if her pregnancy with Juliana was subject to the fetal protections afforded by a normal three-vessel umbilical cord.

43. After December 13, 2017, Dr. Yuzefovich and Millennium Gynecology, PLLC did not provide Ms. Solis with additional or more frequent monitoring, ultrasounds, or biophysical profiles for the duration of her pregnancy based on the condition or structure of her umbilical cord.

44. On January 17, February 7, and February 28, 2018, Ms. Solis was again seen at Millennium Gynecology, PLLC for ongoing prenatal care at 25 weeks and 2 days, 28 weeks and 2 days, and 31 weeks and 2 days gestation respectively. At each visit, the fetal heart rate was noted to be in the 140's and positive fetal movement was noted.

45. On March 19, 2018, Ms. Solis presented to Sentara Northern Virginia Medical Center with contractions. Electronic fetal monitoring and ultrasound revealed that Juliana had no heart activity and was deceased. Ms. Solis was informed of Juliana's death in utero. She then underwent an induced labor and delivery resulting in the stillbirth of Juliana later that morning. At the time of her delivery, Juliana weighed 1,498.36 grams.

46. Pathologist Jerome T. O'Connell, MD conducted a provisional anatomic evaluation of Juliana and noted no internal or external congenital malformations. He also performed a pathological examination of Juliana's placenta and umbilical cord. In doing so, he

determined that the umbilical cord contained only two vessels, contrary to the interpretations of Ms. Solis' December 13, 2017 and January 10, 2018 ultrasounds.

COUNT ONE

**False Claims Act—Presenting False or Fraudulent Claims
in Violation of 31 U.S.C. § 3729(a)(1)
(Against All Defendants)**

47. Relator-Plaintiff reasserts and incorporates by reference paragraphs 1-46 as if fully set forth here.

48. Dr. Yuzefovich and Millennium Gynecology, PLLC defrauded the federal and state government by knowingly and willfully submitting claims for reimbursement for services that were never provided to Ms. Solis, specifically multiple fetal biophysical profiles without non-stress testing.

49. Dr. Yuzefovich and Millennium Gynecology, PLLC defrauded the federal and state government by knowingly and willfully submitting claims claims for incomplete services that were not fully provided to Ms. Solis, specifically claims for payment associated with ultrasounds whose images Dr. Yuzefovich never reviewed.

50. The submissions referenced above constituted false claims under the Act, and specifically false claims under 31 U.S.C. § 3729(a)(1)(A)-(C).

51. Dr. Yuzefovich and Millennium Gynecology, PLLC made these claims seeking to obtain financial benefit by obtaining reimbursement under the Medicaid program for services not rendered.

52. Dr. Yuzefovich directed the above conduct and fraud and/or had actual knowledge of the scheme to defraud described above.

53. As a direct and proximate result of Dr. Yuzefovich and Millennium Gynecology, PLLC's conduct, the United States has suffered actual damages, having made payments and/or reimbursements for services never performed or incompletely rendered. Moreover, by reason of Dr. Yuzefovich and Millennium Gynecology, PLLC's acts, the United States continues to be damaged. The United States is entitled to treble damages under the False Claims Act, in an amount to be determined at trial, plus a civil penalty for each violation.

54. The Medicaid program is entitled to full recovery of all amounts paid by the Medicaid program and any other federally funded or state funded programs as a result of the submission of claims for services which were not performed and/or were not permitted, or which Millennium Gynecology, PLLC caused to be submitted to the Medicaid program.

COUNT TWO

False Claims Act—Making or Using a False or Fraudulent Record or Statement 31 U.S.C. § 3729(a)(1)(B) (Against All Defendants)

55. Relator-Plaintiff reasserts and incorporates by reference paragraphs 1-54 as if fully set forth herein.

56. Dr. Yuzefovich and Millennium Gynecology, PLLC knowingly made or caused to be made false statements or records in order to get false or fraudulent claims paid, reimbursed, or approved in violation of 31 U.S.C. § 3729(a)(1)(B). Those false statements or records pertain to representations about fetal biophysical profiles without non-stress testing under CPT code 76819, which neither Dr. Yuzefovich nor Millennium Gynecology, PLLC performed, and about ultrasounds under CPT code 76820-59, which Dr. Yuzefovich did not complete.

57. The Government, including Medicaid, paid Dr. Yuzefovich and Millennium Gynecology, PLLC for the false claims Dr. Yuzefovich and Millennium Gynecology, PLLC presented or caused to be presented.

58. Each claim for payment that was submitted or caused to be submitted was false or fraudulent as described herein (i.e., repeatedly billing for services not provided or services not completed) and would not have been paid but for Dr. Yuzefovich and Millennium Gynecology, PLLC's fraudulent conduct and false statements or records.

59. As a direct and proximate result of Dr. Yuzefovich and Millennium Gynecology, PLLC's conduct, the United States has suffered actual damages, having made payments and/or reimbursements for services never performed or incompletely rendered. Moreover, by reason of Dr. Yuzefovich and Millennium Gynecology, PLLC's acts, the United States continues to be damaged. The United States is entitled to treble damages under the False Claims Act, in an amount to be determined at trial, plus a civil penalty for each violation.

COUNT THREE

Virginia Fraud Against Taxpayers Act Virginia Code § 8.01-216.1(A)(1) (Against All Defendants)

60. Relator-Plaintiff reasserts and incorporates by reference paragraphs 1-59 as if fully set forth here.

61. The submissions referenced above constitute false claims under the Virginia Fraud Against Taxpayers Act, specifically Va. Code § 8.01-216.3(A)(1)-(3).

62. The Virginia Fraud Against Taxpayers Act, Va. Code § 8.01-216.3(A), defines one making a "false claim" as any person who: (1) knowingly presents, or causing to be presented, a

false or fraudulent claim for payment or approval; (2) knowingly makes, uses or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Commonwealth; and (3) conspires to defraud the Commonwealth by getting a false or fraudulent claim allowed or paid.

63. Dr. Yuzefovich and Millennium Gynecology, PLLC defrauded the Commonwealth by knowingly submitting claims for reimbursement for services without having satisfied the conditions for payment from the Virginia Medicaid program and the Virginia Department of Medical Assistance Services. In Ms. Solis' case, Dr. Yuzefovich and Millennium Gynecology, PLLC did not perform the fetal biophysical profiles without non-stress testing for which Virginia Medicaid was billed and Dr. Yuzefovich did not review the ultrasound images for the ultrasound for which Virginia Medicaid was billed.

64. Dr. Yuzefovich and Millennium Gynecology, PLLC made these claims seeking to obtain financial benefit by obtaining reimbursement under the Virginia Medicaid program for services not rendered or allowed by the controlling statutes and regulations.

65. Dr. Yuzefovich directed the above conduct and fraud and/or had actual knowledge of the scheme to defraud described above.

66. As a direct and proximate result of Dr. Yuzefovich and Millennium Gynecology, PLLC's conduct, the Commonwealth of Virginia has suffered actual damages, having made payments and/or reimbursements for services never performed and/or services incompletely rendered. Moreover, by reason of Dr. Yuzefovich and Millennium Gynecology, PLLC's acts, the Commonwealth of Virginia continues to be damaged. All damages will be determined at trial.

67. The Virginia Medicaid program is entitled to full recovery of all amounts paid by these programs and any other federally funded or state funded programs as a result of the submission of claims for services which were not performed and/or were not permitted, or which Millennium Gynecology, PLLC caused to be submitted to the Virginia Medicaid program.

68. Accordingly, Defendants Michael Yuzefovich, M.D. and Millennium Gynecology, PLLC are liable to the Commonwealth of Virginia for civil penalties between \$5,500 and \$11,000 for each claim submitted to Virginia Medicaid, plus three times the amount of actual damages the Commonwealth sustained because of Defendants' conduct.

COUNT FOUR

Virginia Fraud Against Taxpayers Act Virginia Code § 8.01-216.3(A)(2) (Against All Defendants)

69. Relator-Plaintiff reasserts and incorporates paragraphs 1-68 as if fully set forth herein.

70. For all times relevant to this action, the Commonwealth, through the Department of Medical Assistance Services, approved services based on the submission of bills and claims prepared and submitted by Defendants Dr. Yuzefovich and Millennium Gynecology, PLLC. The Department of Medical Assistance Services thereafter paid Dr. Yuzefovich and Millennium Gynecology, PLLC based on the submission of such claims.

71. Defendants Dr. Yuzefovich and Millennium Gynecology, PLLC knowingly, and/or with deliberate ignorance of their truth or falsity, and/or with reckless disregard for their truth or falsity submitted claims to the Commonwealth that were false and/or fraudulent in that these claims sought reimbursement for: (a) services not rendered; or (b) services not completed.

72. Defendants Dr. Yuzefovich and Millennium Gynecology, PLLC knowingly, and/or with deliberate ignorance of their truth or falsity, and/or with reckless disregard for their truth or falsity submitted false and/or fraudulent claims for services that were predicated upon false and/or fraudulent receipts or records, which represented services that had been rendered. In fact, such services were not rendered or were not completed.

73. Accordingly, Defendants Dr. Yuzefovich and Millennium Gynecology, PLLC knowingly, and/or with deliberate ignorance of their truth or falsity, and/or with reckless disregard for their truth or falsity made, used, or caused to be made or used a false record and/or statement material to a false or fraudulent claim submitted to the Commonwealth in violation of Virginia Code § 8.01-216.1, *et seq.*

74. Accordingly, Defendants Michael Yuzefovich, M.D. and Millennium Gynecology, PLLC are liable to the Commonwealth of Virginia for civil penalties between \$5,500 and \$11,000 for each claim submitted to Virginia Medicaid, plus three times the amount of actual damages the Commonwealth sustained because of Defendants' conduct.

PRAYER FOR RELIEF

WHEREFORE, Relator-Plaintiff Sara Solis, on behalf of herself, the United States of America, and the Commonwealth of Virginia, requests the following relief:

(a) judgment against Defendants Michael Yuzefovich, M.D. and Millennium Gynecology, PLLC in an amount of three (3) times the damages the United States and the Commonwealth of Virginia have sustained as a result of Defendants' actions, plus a civil penalty for each and every false action taken by Michael Yuzefovich, M.D. and Millennium Gynecology,

PLLC in violation of an pursuant to 31 U.S.C. § 3729, *et seq.* and/or Va. Code § 8.01-216.1, *et seq.*, and costs of this action, with interest;

(b) injunctive relief against Defendants, prohibiting them from violation the False Claims Act;

(c) all reasonable attorney's fees, costs, and expenses the Government and Ms. Solis' counsel incurred;

(d) pre-judgment and post-judgment interest;

(e) an award to Ms. Solis of the maximum "relator's share" allowed under 31 U.S.C. § 3730(d) and Va. Code § 8.01-216.7; and

(f) all such other relief as this Court deems just and proper.

Plaintiff-Relator SARA SOLIS
By counsel

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JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable herein.

Travis W. Markley
Travis W. Markley

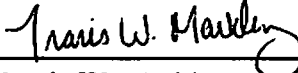
CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of April, 2020, I served a copy of the Complaint filed in this matter by Certified Mail, Return-Receipt Requested, to:

Hon. William Barr, Esq.
Attorney General of the United States of America
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, DC 20530-0001

Hon. G. Zachary Terwilliger, Esq.
United States Attorney for the Eastern District of Virginia
Justin W. Williams United States Attorney's Building
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Hon. Mark R. Herring, Esq.
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900 E. Main Street
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Travis W. Markley